Remarks

The Office Action dated March 14, 2001 has been carefully reviewed. Claims 1-17 are pending in this patent application. Reconsideration of this application, in light of the following remarks, is respectfully requested.

35 U.S.C. § 103 (a) Rejection of Claims 1-17

Claims 1-17 are rejected under 35 U.S.C. § 103(a), as being unpatentable over US 5,266,390 (Garland) alone, or in view of US 5,368,912 (Reaves), for reasons of record. Specifically, the Examiner states the following on page 2, line 7 through page 4, line 20 of the Office Action:

> Applicant's arguments filed in the *Response to Office* Action on January 8, 2001, have been fully considered but they are not persuasive.
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> Applicant traverses the obviousness of the Garland rejection by asserting that Garland actually teaches away from the claimed invention. Specifically, Applicant asserts, "Garland teaches that canvas (i.e. cotton) is not suitable because (I) it may permit the fluid product to penetrate and pass through the cloth, and (ii) the material is inconsistent due to a wide range of weights and weaves." (Response, page 4, 3rd paragraph.) Said argument is found unconvincing because of Applicant's faulty conclusion of the equivalence of canvas and cotton.
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> Although, Applicant's submitted definitions of canvas do indicate that canvas is commonly made of cotton, they do not in any manner imply said equivalence. A definition of canvas more specific to the textile arts is given as "A general classification of strong, firm closely woven fabrics *usually* made with cotton." Additionally, said definition states that "the terms canvas and duck are used interchangeably." The definition of duck includes "a broad term for a wide range of strong, firm, plain, weave fabrics, including the heaviest, strongest, single woven fabric made; duck is *usually* made of cotton, although sometimes linen or blends of cotton and manufactured fibers are used." (*Fairchild's Dictionary of Textiles,* 7th ed.) Applicant's own definitions of canvas also indicate fiber types other than cotton. Thus, "canvas" is more characteristic of a fabric weave than of a specific fiber type. Therefore, Applicant's assertion that Garland's teaching of canvas is equivalent to a teaching of cotton is unpersuasive. Garland's teaching of the disadvantages of canvas (i.e., fluid penetration) may be due to the particular weave rather than the fiber type. In fact, Garland notes said canvas is inconsistent *due* to different *fabric weights and weaves*. Also, it is asserted that the problem of fluid penetration of the canvas dropcloth is primarily solved by Garland with a central layer of barrier film. (Note Garland, col. 3, lines 19-23.)n Hence, the main disadvantage of canvas, according to Garland, is resolved by not the choice of material (cotton vs. polypropylene) of the outer layers, but rather the central barrier system.
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> Additionally, Applicant argues that Garland teaches "canvas (i.e. cotton) does not hold liquid, rather it permits fluid to penetrate or pass through the cloth," which is contrary to what Garland's preferred polypropylene material is capable of doing. Said argument is also found unpersuasive. First, it is asserted that woven and nonwoven fabrics, regardless of fiber type, will inherently possess different absorption and retention properties due to the inherently different fabric structures. Thus, Applicant's

> direct comparison of said properties between a woven canvas fabric and a spunbound nonwoven fabric is flawed.
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> Further more, it is reiterated that Garland's primary requirement for the outer layers is that they are absorbent and retain fluids. Garland specifically teaches that polypropylene nonwoven must be "specifically formed or treated to absorb moisture-based products and the like" 9col. 3, lines 29-31). As previously argued, cotton or rayon fibers are known to be inherently absorbent; they do not require special treatments to produce absorbency. Thus, it would have been obvious to one of ordinary skill in the art to substitute a known absorbent fiber for a hydrophilic fiber which requires a special treatment to become hydrophilic. Also, it is asserted that with a barrier layer attached to the outer absorbent layer, the retention of fluid is inherently improved (i.e., fluid does not penetrate through the dropcloth), regardless of the fiber type employed in said absorbent layer.
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> With respect to Applicant's assertion that the cited Reaves patent does not provide the documentary proof of obviousness which is lacking in garland (Response, page 5, 1st paragraph), it is reiterated that Reaves clearly teaches the use of films, woven fabrics, or nonwoven fabrics for the inventive protective cover (col. 2, lines 52-65). Reaves also clearly teaches that natural or synthetic fibers may be employed, with cotton and polypropylene being the two cited examples. Thus, the Examiner is not asserting that woven and nonwoven fabrics are always suitable substitutes, as argued by the Applicant (Response, page 5, 1st paragraph).
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> Therefore, Applicant's arguments are found unpersuasive and the above rejections stand.

Applicant again respectfully disagrees. Applicant respectfully points out that Garland specifically states the following in column 1, lines 24-31:

> **Canvas dropcloths may permit the fluid product to penetrate and pass through the cloth**, particularly where the fluid product is or has been thinned significantly. Thus, paint thinners and removers can penetrate as well as various paints, particularly if thinned. There is also a wide range of weights and weaves in this cloth material which make the product very inconsistent. (Emphasis added.)

The Examiner has acknowledged that canvas is **usually made of cotton**, but then goes on to argue that just because the possibility exists that canvas can be made of other types of fibers an artisan would still be motivated to modify Garland wherein a cotton or rayon nonwoven is substituted for the polypropylene nonwoven layer. The Examiner further argues that Garland's teaching of the disadvantages of canvas (i.e., fluid penetration) may be due to the particular weave rather than the fiber type. Applicant respectfully points out that Garland is devoid of any discussion setting forth the argument that the disadvantages of canvas (i.e., fluid penetration) may be due to the

particular weave rather than the fiber type. Applicant again directs the Examiner's attention to the fact that Garland clearly and specifically teaches the disadvantages canvas. In addition, as pointed out above, the Examiner acknowledges that canvas is **usually made of cotton,** that is canvas is customarily or ordinarily made of cotton. Therefore, the Applicant respectfully requests that the explain why one of ordinary skill, knowing (i) the disadvantages of canvas as taught by Garland and (ii) that canvas is usually made of cotton, would be motivated to modify Garland wherein a cotton or rayon nonwoven is substituted for the polypropylene nonwoven layer. Applicant respectfully submits that the Examiner has of yet failed to set forth the requisite reasoning. Accordingly, Applicant submits that the Examiner has failed to set forth the requisite reasoning to properly maintain the subject rejection. As such, Applicant respectfully requests that the subject rejection be withdrawn.

Conclusion

In view of the foregoing remarks, it is submitted that this application is in condition for allowance. Action to that end is hereby solicited.

Respectfully submitted,

Bradford G. Addison
Attorney for Applicant
Registration No. 41,486

December 14, 2001

Maginot, Addison & Moore
Bank One Tower
111 Monument Circle, Suite 3000
Indianapolis, Indiana 46204-5130
Phone: (317) 638-2922
Fax: (317) 638-2139